

ASARCO

SENT BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JAN 21 1999

Montana Department of
Environmental Quality
Permitting & Compliance Division
1000 North Central Expressway

January 19, 1999

William Potts
Permitting and Compliance Division
Air and Waste Management Bureau
Montana Department of Environmental Quality
P. O. Box 200901
Helena, Montana 59620-0901

ENVIRONMENTAL
PROTECTION AGENCY

JAN 29 1999

MONTANA OFFICE

Dear Mr. Potts

This letter responds to your letter of December 29, 1998, regarding the November 4-5, 1998 compliance evaluation inspection of the Asarco East Helena Plant. We appreciate your willingness to extend by 10 days each of the two deadlines for providing information in response to certain requests set forth in your letter. This letter responds to your questions regarding management of "tank bottoms" and pertaining to two waste shipment for which Asarco did not have signed manifests indicating receipt by a designated facility at the time of your inspection. We plan to respond by January 29, 1999 to your request for information regarding sulfuric acid sales.

Hazardous Waste Manifests

Your letter requests submission of "[a]n exception report" regarding the efforts by Asarco to locate certain hazardous wastes for which signed manifests were missing at the time of your inspection. Subsequently, however, signed copies of these manifests were received from the disposal facility. Copies are attached to this letter. Accordingly, Asarco has undertaken no further effort "to locate the hazardous waste". In the future, Asarco will try to achieve meticulous compliance with the manifesting requirements, including the 35-day inquiry and exception reporting. Asarco has already developed and implemented standard operating procedures under our Asarco Management System to address this matter. Asarco anticipates that, due to the transportation delays, it may be continue to experience delays in receipt of signed manifests with respect to rail shipments of bulk loads of hazardous wastes.

Tank Bottom Management

Asarco cannot readily accept the contention of the Department that dewatering of the tank bottoms sediments prior to recycling constitutes "treatment" and that, therefore, the tank bottoms should be considered hazardous wastes. Under the current RCRA regulations, these tank bottoms are either "sludges" or "byproducts" that exhibit a characteristic of hazard and are

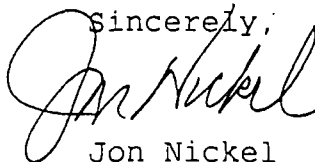
destine for legitimate reclamation. As such, they remain exempt from the definitions of solid and hazardous waste. In the preamble to its January 1985 rule on the definition of "solid waste," the Environmental Protection Agency expressly stated that dewatering of a wastewater treatment sludge by a primary smelting facility before return of the sludge to the smelting process for metal recovery constitutes reclamation. See 50 Fed. Reg. 614, 639-40(1985). Asarco is not aware of any Montana regulation or authoritative guidance that would compel a contrary conclusion.

Accordingly, Asarco does not believe that its management of these tank bottoms is subject to hazardous waste regulations, including those governing temporary accumulation. An exception is the speculative accumulation rule, which Asarco pays close attention. Also, we don't believe that our practice of allowing evaporative drying of these materials in outdoors bins results in a release of hazardous waste or hazardous waste constituents to the environment. Most, if not all, of the free liquid contained in the tank bottoms evaporate or are absorbed by the limerock. It is true that the Department observed some liquid escaping containment at an outdoor bin. Nonetheless, as your letter acknowledges, this liquid flows onto a concrete roadway. The plant routinely operates a road sweeper on such roadways and in all likelihood any residual metals in this seepage were captured by the sweeper. As such they were not being released to the soil, surface water, or groundwater.

Asarco acknowledges that these tank bottoms will lose their broad exemption from solid and hazardous waste status, if and when Montana adopts EPA's "LDR Phase IV" rule. In anticipation of this rule, and to address the concerns raise in your letter and inspection report, Asarco plans to immediately improve its management of these materials to ensure their dewatering and storage in units that will qualify under the "conditional exclusion" from the definition of solid waste propounded in the Phase IV rule.

In light of the fact that Asarco can demonstrate that the two waste shipments at issue in your manifest review have reached designated facilities, and in light of the foregoing discussion of tank bottom management, we respectfully suggest that no further enforcement action is appropriate.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jon Nickel".

Jon Nickel

Enclosure

UNIFORM HAZARDOUS
WASTE MANIFEST

1. Generator's US EPA ID No.

M. T. D. 0. 0. 6. 2. 3. 0. 3. 4. 6.

Manifest
Document No.

0. 0. 1. 6. 0.

2. Page 1

of 2

Information in the shaded areas is
not required by Federal law.

3. Generator's Name and Mailing Address

Asarco Incorporated
P. O. Box 1230 East Helena, Mt. 59635

4. Generator's Phone (406) 227-4015

A. State Manifest Document Number

B. State Generator's ID

5. Transporter 1 Company Name

Burlington Northern Railroad

6. US EPA ID Number

M. N. D. 0. 4. 8. 3. 4. 1. 7. 8. 8.

C. State Transporter's ID

D. Transporter's Phone

7. Transporter 2 Company Name

Union Pacific Railroad

8. US EPA ID Number

N. E. D. 0. 0. 1. 7. 9. 2. 9. 1. 0.

E. State Transporter's ID

F. Transporter's Phone

9. Designated Facility Name and Site Address

Safety-Kleen Grassy Mountain Facility Tooele County
3 Miles East and 7 Miles North of Knolls Utah 84029
Exit 41 Off Interstate 80

10. US EPA ID Number

U. T. D. 9. 9. 1. 3. 0. 1. 7. 4. 8.

G. State Facility's ID

H. Facility's Phone

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

a.

RQ, Hazardous Waste Solid, N.O.S. (D006 Cadmium
D008 Lead, D010 Selenium), 9 NA3077, PGIII
RQ= 10lbs. Marked:3077

12. Containers

No.

Type

13. Total
Quantity14. Unit
Wt/Vol

1. Waste No.

0. 0. 1

C. M.

6. 5. 3. 8. 0

P

D006
D008
D010

b.

c.

d.

J. Additional Descriptions for Materials Listed Above

GM97-0401 (Grassy Mountain Acceptance No.)
Furnace Brick and Debris
Emergency Response Chemtrec (800)424-9300
Certificate of Disposal Required

K. Handling Codes for Wastes Listed Above

15. Special Handling Instructions and Additional Information

Railcar No. UP32397

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations.

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimized the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

Jon C. Nickel

Signature

Month Day Year

10. 9. 1. 7. 19. 8.

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name

MIKE PACCINELLI

Signature

Month Day Year

10. 9. 1. 7. 19. 8.

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Month Day Year

1. 1. 1.

19. Discrepancy Indication Space

20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.

Printed/Typed Name

Becky Fields

Signature

Becky Fields

Month Day Year

11. 0. 12. 8. 19. 8.

Order No. 16911

Form Approved GMB No. 2050-0039, Expires 9-30-98

**UNIFORM HAZARDOUS
WASTE MANIFEST
(Continuation Sheet)**

21. Generator's US EPA ID No.

Manifest
Document No.

22. Page

Information in the shaded areas is not
required by Federal law.

M.T.D. 0 0 6 2 3 0 3 4 6 0 0 1 6 0

2

L. State Manifest Document Number

M. State Generator's ID

N. State Transporter's ID

O. Transporter's Phone 801-882-0103

P. State Transporter's ID

Q. Transporter's Phone

28. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

29. Containers

30.
Total
Quantity31.
Unit
Wt/VolR.
Waste No.

a.					
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i.					

S. Additional Descriptions for Materials Listed Above

T. Handling Codes for Wastes Listed Above

GM97-0401 (Grassy Mountain Acceptance No.)
Furnace Brick and Debris
Emergency Response: Chemtrec; (800) 424-9300
Certificate of Disposal Required

32. Special Handling Instructions and Additional Information

Railcar No. UP32397

33. Transporter 3 Acknowledgement of Receipt of Materials

Date

Printed/Typed Name

Signature

Month Day Year

X JIM SMITH



10/28/98

34. Transporter 3 Acknowledgement of Receipt of Materials

Date

Printed/Typed Name

Signature

Month Day Year

35. Discrepancy Indication Space

Emergency Contact Telephone Number

Order No. 16364

Please print or type (Form designed for use on side (12-9-87))

EPA Form 3500-Approved, OMB No. 2050-0039, Expires 9-30-98

UNIFORM HAZARDOUS
WASTE MANIFEST1. Generator's US EPA ID No.
M T D 0.0.6.2.3.0.3.4.6Manifest
Document No.
0-0-1-5-42. Page 1
of 2

Information in this manifest is not required by Federal law

3. Generator's Name and Mailing Address

Asarco Incorporated
P. O. Box 1230 East Helena, Mt. 59635

4. Generator's Phone (406) 227-4015

5. Transporter 1 Company Name

Burlington Northern Railroad

6. US EPA ID Number

M.N.D.0.4.8.3.4.1.7.8.8

7. Transporter 2 Company Name

Union Pacific Railroad

8. US EPA ID Number

N.E.D.0.0.1.7.9.2.9.1.0

9. Designated Facility Name and Site Address

Safety-Kleen Grassy Mountain Facility Tooele County
3 Miles East & 7 Miles North of Knolls Utah 84029
Exit 41 Off Interstate 80

10. US EPA ID Number

U.T.D.9.9.1.3.0.1.7.4.8

A. State Manifest Document Number

B. State Generator's ID

C. State Transporter's ID

D. Transporter's Phone

E. State Transporter's ID

F. Transporter's Phone

G. State Facility's ID

H. Facility's Phone

11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

a. RQ, Hazardous Waste Solid, N.O.S. (D004 Arsenic
D005 Barium, D006 Cadmium, D007 Chromium, D008
Lead, D010 Selenium, D011 Silver), 9 NA3077

12. Containers

No.

Type

13. Total
Quantity14. Unit
Wt./Vol

1. Waste No.

0-0-1

C-M

16 1 9 80

P

D004 D005

D006 D007

D008 D010

b. PGIII RQ= 10 lbs. Marked: 3077

D011

GENERATOR

1. Additional Descriptions for Materials Listed Above

GM98-0074 (Grassy Mountain Acceptance No.)
Contaminated Soil
Emergency Response Chemtrec (800)424-9300
Certificat of Disposal Required

K. Handling Codes for Wastes Listed Above

15. Special Handling Instructions and Additional Information

Railcar No. BN5 00093

16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations

If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimized the present and future threat to human health and the environment. OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford.

Printed/Typed Name

Signature

Month Day Year

Jon C. Nickel

10-9-1989

TRANSPORTER

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Month Day Year

MIKE PUCINELLI

10-9-1989

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Month Day Year

FACILITY

19. Discrepancy Indication Space

20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.

Printed/Typed Name

Signature

Month Day Year

E. M. M. (10-9-89)

10-9-1989

ORIGINAL — RETURN TO GENERATOR

Order No. 16364

Form Approved OMB No. 2050-0039 Expires 9-30-95

Please print or type.
(Form designed for use on elite (12-pitch) typewriter.)**UNIFORM HAZARDOUS
WASTE MANIFEST
(Continuation Sheet)**

21. Generator's US EPA ID No.

Manifest
Document No.

22. Page

Information in the shaded area is not
required by Federal law

M. T. D. 0.0.6.2.3.0.3.4.6 | 0.0.15.4

2

23. Generator's Name

Asarco Incorporated

P. O. Box 1230

East Helena, Mt. 59635

L. State Manifest Document Number

M. State Generator's ID

24. Transporter Company Name

McFarland Hullinger Trucking

25. US EPA ID Number

U. T. D. 9.8.0.9.5.4.7.9.6

N. State Transporter's ID

O. Transporter's Phone 801-882-0103

26. Transporter Company Name

27. US EPA ID Number

P. State Transporter's ID

Q. Transporter's Phone

28. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)

29. Containers

No

Type

30.
Total
Quantity31.
Unit
Wt/VolR.
Waste No

a.

b.

c.

d.

e.

f.

g.

h.

i.

S. Additional Descriptions for Materials Listed Above

GM98-0074 (Grassy Mountain Acceptance No.)

Contaminated Soil

Emergency Response Chemtrec (800)424-9300

Certification of Disposal Required

T. Handling Codes for Wastes Listed Above

32. Special Handling Instructions and Additional Information

Railcar No. BN500093

33. Transporter Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Date

Month Day Year

10/17/88

34. Transporter Acknowledgement of Receipt of Materials

Printed/Typed Name

Signature

Date

Month Day Year

35. Discrepancy Indication Space

ORIGINAL RETURN TO GENERATOR

20-FS-07
(Rev. 8/84)



ENERGY LABORATORIES, INC.

P.O. BOX 30916 • 1120 SOUTH 27TH STREET • BILLINGS, MT 59107-0916 • PHONE (406) 252-6323
FAX (406) 252-6069 • 1-800-735-4489 • E-MAIL eli@energylab.com

LABORATORY REPORT

TO: Bill Potts
ADDRESS: MT. Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620

LAB NO.: 98-72334
DATE: 11/16/98 km

WASTE ANALYSIS

Asarco E. Helena
ASARCO-Bin 98-SW
Sampled 11/05/98 @ 1445
Submitted 11/09/98
Extracted 11/09/98

TOXICITY CHARACTERISTIC LEACHING PROCEDURE EPA SW-846 METHOD 1311

Metals	CAS No.	Regulatory Limit, mg/l	Minimum Reporting Limit, mg/l	Result, mg/l in Extract	Spike Percent Recovery	Date and Time Analyzed	Analyst's Initials
Arsenic	7440-38-2	5.0	0.5	2.6	104	11/10/98 @ 1418	RLH
Barium	7440-39-3	100	10	<10	105	11/10/98 @ 1418	RLH
Cadmium	7440-43-9	1.0	0.1	124	91	11/12/98 @ 1557	RLH
Chromium	7440-47-3	5.0	0.5	<0.5	95	11/10/98 @ 1418	RLH
Lead	7439-92-1	5.0	0.5	570	95	11/12/98 @ 1557	RLH
Mercury	7439-97-6	0.2	0.02	<0.02	85	11/12/98 @ 2337	LAB
Selenium	7782-49-2	1.0	0.1	<0.1	92	11/12/98 @ 2337	LAB
Silver	7440-22-4	5.0	0.5	<0.5	82	11/10/98 @ 1418	RLH



ENERGY LABORATORIES, INC.

P.O. BOX 30916 • 1120 SOUTH 27TH STREET • BILLINGS, MT 59107-0916 • PHONE (406) 252-6325
FAX (406) 252-6069 • 1-800-735-4489 • E-MAIL elr@energylab.com

LABORATORY REPORT

TO: Bill Potts
ADDRESS: MT. Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620

LAB NO.: 98-72335
DATE: 11/16/98 km

WASTE ANALYSIS

Asarco E. Helena
ASARCO-Bin 98-NE
Sampled 11/05/98 @ 1450
Submitted 11/09/98
Extracted 11/09/98

TOXICITY CHARACTERISTIC LEACHING PROCEDURE EPA SW-846 METHOD 1311

Metals	CAS No.	Regulatory Limit, mg/l	Minimum Reporting Limit, mg/l	Result, mg/l in Extract	Spike Percent Recovery	Date and Time Analyzed	Analyst's Initials
Arsenic	7440-38-2	5.0	0.5	1.5	97	11/10/98 @ 1422	RLH
Barium	7440-39-3	100	10	<10	99	11/10/98 @ 1422	RLH
Cadmium	7440-43-9	1.0	0.1	100	85	11/12/98 @ 1601	RLH
Chromium	7440-47-3	5.0	0.5	<0.5	94	11/10/98 @ 1422	RLH
Lead	7439-92-1	5.0	0.5	310	95	11/12/98 @ 1601	RLH
Mercury	7439-97-6	0.2	0.02	<0.02	90	11/13/98 @ 0004	LAB
Selenium	7782-49-2	1.0	0.1	0.1	98	11/13/98 @ 0004	LAB
Silver	7440-22-4	5.0	0.5	<0.5	78	11/10/98 @ 1422	RLH

LABORATORY REPORT

TO: Bill Potts
ADDRESS: MT. Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620

LAB NO.: 98-72336
DATE: 11/16/98 km

WASTE ANALYSIS

Asarco E. Helena
ASARCO-Bin 97B
Sampled 11/05/98 @ 1455
Submitted 11/09/98
Extracted 11/09/98

**TOXICITY CHARACTERISTIC LEACHING PROCEDURE
EPA SW-846 METHOD 1311**

Metals	CAS No.	Regulatory Limit, mg/l	Minimum Reporting Limit, mg/l	Result, mg/l in Extract	Spike Percent Recovery	Date and Time Analyzed	Analyst's Initials
Arsenic	7440-38-2	5.0	0.5	3.4	102	11/10/98 @ 1426	RLH
Barium	7440-39-3	100	10	<10	104	11/10/98 @ 1426	RLH
Cadmium	7440-43-9	1.0	0.1	160	73	11/12/98 @ 1605	RLH
Chromium	7440-47-3	5.0	0.5	<0.5	97	11/10/98 @ 1426	RLH
Lead	7439-92-1	5.0	0.5	150	87	11/12/98 @ 1605	RLH
Mercury	7439-97-6	0.2	0.02	<0.02	86	11/13/98 @ 0014	LAB
Selenium	7782-49-2	1.0	0.1	<0.1	98	11/13/98 @ 0014	LAB
Silver	7440-22-4	5.0	0.5	<0.5	79	11/10/98 @ 1426	RLH

Lab Nos.: 98-72334 - 98-72336

Date: 09-NOV-98

Received by: Randa Hoelscher

Logged In by: Randa Hoelscher

SAMPLE CONDITION QA/QC REPORT

This report provides information about the condition of the sample(s)
and associated sample custody information on receipt at the laboratory.

Chain of Custody Form	
Completed & Signed	<u>Yes</u> Comments: _____
Chain of Custody Seal	<u>Yes</u> Comments: _____
Intact	<u>Yes</u> Comments: _____
Signature Match Chain of Custody vs. Seal	<u>Yes</u> Comments: _____
Samples Received Cold	<u>Yes</u> Comments: _____
Samples Received Within Holding Time	<u>Yes</u> Comments: _____
Samples Received in Proper Containers	<u>Yes</u> Comments: _____
Samples Received Properly Preserved	<u>N/A</u> Comments: _____

Samples requiring analysis for volatile organics are tested for proper preservation at the time of analysis.
Any preservation problems encountered for these samples are noted on the analytical parameter report pages.

Client notified about sample discrepancies:

Who: _____ By: _____ Date/Time: _____

Method of Shipping: RR Trlwys 713733

Additional comments: _____

HAZARDOUS MATERIALS SAMPLE ANALYSIS REQUEST

Responsibility Center No. 501

Date and Time Collected 11/28/98 2:45^{PM} 3:00 PM

General Sample Description Room samples - fast track cleanup

Reason for Collection Compliance Evaluation Inspector

Name ASPIRE Inc.

Address East Haven

Location (if different than address) _____

Sample Number, Description and Preparation #1 - Bin 99 (SW), #2 - Bin 98 (NE),
#3 - Bin 97B

Analysis Requested TCLP for metals - Confirm that metal values
possible

Sampler's Name Bili Potts

Phone 444-5280

Lab Only

Name of Person Receiving Sample _____

Lab Sample Number _____

Date of Sample Receipt _____